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APPLICATION FOR PATENT TERM
ADJUSTMENT UNDER 37 CFR §1.705(b)
Examining Group 1652
Patent Application
Docket No. G-091US05DIV
Serial No. 09/992,095

July 7, 2005

Frank C. Eisenschank

Frank C. Eisenschank, Ph.D., Patent Attorney

IFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : Sheridan Swope
Art Unit : 1652 CONFIRMATION NO.: 1774
Applicants : Stephane Bejanin, Haroaki Tanaka
Serial No. : 09/992,095
Filed : November 13, 2001
For : Human cDNAs and Proteins and Uses Thereof

Mail Stop, PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

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APPLICATION FOR PATENT ADJUSTMENT
UNDER 37 CFR §1.705(b)

08/15/2005 GWORDOF2 00000051 09992095
01 FC:1455 200.00 DA

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OICE/IAP
AUG 15 2005

Sir:

The applicants have received a Notice of Allowance for the above-referenced patent application. The Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) that accompanied the Notice of Allowance indicates that the patent will be entitled to 145 days of Patent Term Adjustment. Applicants respectfully assert that this Patent Term Adjustment Determination is incorrect. Applicants believe the correct Patent Term Adjustment should be 435 days.

The subject application was filed on November 13, 2001. A Notice to File Missing Parts dated January 9, 2002 was subsequently received in the application. The Notice indicated that an

executed Oath or Declaration was required, along with a computer readable copy of the Sequence Listing as filed in the application. Therefore, applicants filed a response to the Notice that was received in the Patent Office on May 1, 2002, which included executed Declarations by the inventors, copies of the Sequence Listings in computer readable format and a Statement regarding the Sequence Listing. Applicants' representative is not in possession of the original return receipt postcard for this submission. This application was transferred to the below signed after the May 1, 2002 submission and previous counsel did not provide the original postcard with the transferred file. However, enclosed is a copy of the Response to the Notice to File Missing Parts of Nonprovisional Application, which lists the documents received in the Patent Office OIPE on May 1, 2002. Also enclosed is a copy of the Transmittal Form that accompanied said Response. The Transmittal Form contains a typographical error, in that it does not indicate that a CD accompanied the response. However, it is noted that a Patent Office employee wrote at the top of the document "Box CD rom" which applicants believe indicates that a box containing the CD rom was received and the Patent Office employee was acknowledging same on the Transmittal form. This response constituted a 22 day applicant delay.

Applicants then received a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed June 12, 2002. The Notice requested another computer readable copy of the Sequence Listings. A complete response to the this Notice To Comply, including another CD-ROM containing the electronic version of the sequences, was filed on August 12, 2002 and received in the Patent Office OIPE on August 16, 2002. Enclosed is a copy of the return receipt postcard indicating that applicants reply was received on August 16, 2002. This constituted no applicant delay.

Applicants then received a second Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures mailed November 14, 2002. The Notice to Comply again requested a computer readable copy of the Sequence Listing. A response to the second Notice to Comply was filed on February 14, 2003 and received by the Patent Office OIPE on February 20, 2003. This constituted a 6 day applicant delay.

The PAIR record indicates a 317 day applicant delay in responding to the original Notice to File Missing Parts. Applicants respectfully assert that this is in error because, as outlined above,

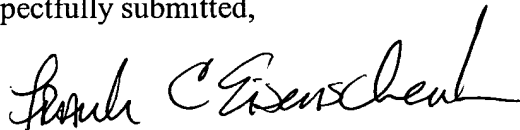
applicants filed a response to each and every Notice received from the Patent Office. The total applicant delay during the period from January 9, 2002 to February 20, 2003 should be only 28 days.

The remainder of the PAIR record appears to be correct. There is a 519 day Patent Office delay in issuing the Restriction Requirement. In addition, there is a further applicant delay of 57 days for replying to the first Office Action.

The applicants respectfully submit that they are entitled to 434 days of Patent Term Adjustment (519 days of Patent Office delay reduced by 85 days of applicants' delay, as outlined above). Applicants respectfully request that the Patent Term Adjustment Determination for this application be corrected and that the published patent indicate the correct Patent Term Adjustment of 434 days.

Please charge the fee of \$200 for this Application for Patent Term Adjustment to Deposit Account No. 19-0065. Any additional fees as required by 37 CFR §§1.16 or 1.17 should be charged to Deposit Account No. 19-0065. Two additional copies of this Application are enclosed.

Respectfully submitted,



Frank C. Eisenschenk, Ph.D.

Patent Attorney

Registration No. 45,332

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: P.O. Box 142950

Gainesville, FL 32614-2950

FCE/gld

- Attachment:
1. Copy of Response to Notice to File Missing Parts of Nonprovisional Application dated April 26, 2002, received by OIPE on May 1, 2002.
 2. Copy of Transmittal letter dated April 26, 2002, received by OIPE May 1, 2002.
 3. Copy of return receipt postcard for submission of August 12, 2002.
 4. Copy of return receipt postcard for submission of February 14, 2003.



Docket/Matter No. 91.US5.DIV

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:)
)
 Applicant : Stephane BEJANIN, et al.)
) Grp./A.U. : 1645
 Appl. No. : 09/992,095)
) Examiner : Unassigned
 Filed : November 13, 2001)
)
 Title : HUMAN CDNAS AND PROTEINS AND USES)
 THEREOF)

Assistant Commissioner of Patents
 Box: Missing Parts
 Washington, D.C. 20231

**RESPONSE TO THE NOTICE TO FILE MISSING PARTS
 OF NONPROVISIONAL APPLICATION**

Sir:

In response to the Notice To File Missing Parts Of Nonprovisional Application dated

January 9, 2002, enclosed please find the following documents:

<u>Document</u>	<u>Quantity</u>
1) Copy of the Notice To File Missing Parts Of Nonprovisional Application	2 pages
2) Declarations signed by Stephane Bejanin and Hiroaki Tanaka	4 pages
3) Powers of Attorney or Authorization of Agent signed by Stephane Bejanin and Hiroaki Tanaka	2 pages
4) Our check in the amount of \$65.00 in payment of the surcharge - Small Entity	
5) Assignments executed by Stephane Bejanin and Hiroaki Tanaka; Assignment Recordation Cover Page	5 pages
6) Our check in the amount of \$40.00 in payment of the recordation fee	

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Appln. No. 09/992,095
 Filed: November 13, 2001


<u>Document</u>	<u>Quantity</u>
7) Copy(ies) of the Sequence Listing in Computer Readable Form as per 37 CFR 1.821(e)	2 CD-ROMs
8) Sequence Submission Statement	1 page
9) Return Receipt Postcard	

Please charge any additional fees, or credit overpayment to Deposit Account No. 50-

1181.

Respectfully submitted,

GENSET CORPORATION

Date: April 26, 2002 By: 
 Deno Dialynas, Ph.D.
 Reg. No. 50,711

10665 Sorrento Valley Road
 San Diego, CA 92121-1609


Telephone: (868) 597-2610
 Facsimile: (858) 597-2600
 e-mail: deno.dialynas@genxy.com

Certificate of Mailing

Date of Deposit: April 26, 2002

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, on the Date of Deposit shown above, postage prepaid and in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Signature


Deno P. Dialynas

Typed or Printed Name of Person Signing Certificate

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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE


Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

 <h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;">(to be used for all correspondence after initial filing)</p>		Application Number 09/992,095
		Filing Date November 13, 2001
		First Named Inventor Stephane Bejanin
		Group Art Unit 1645
		Examiner Name Unassigned
Total Number of Pages in This Submission	Attorney Docket Number 91.US5.DIV	

ENCLOSURES <i>(check all that apply)</i>	
<input checked="" type="checkbox"/> Fee Transmittal Form	<input checked="" type="checkbox"/> Assignment Papers <i>(for an Application)</i>
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)
<input checked="" type="checkbox"/> Amendment / Reply - Preliminary	<input type="checkbox"/> Licensing-related Papers
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition to Convert to a Provisional Application
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer
<input checked="" type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____
<input checked="" type="checkbox"/> Response to Missing Parts/ Incomplete Application	
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	
Remarks	

JUL 12 2005

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Deno Dialynas, Ph.D. Reg. No. 50,711
Signature	
Date	4-26-02

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Washington, DC 20231 on this date: 4-26-02			
Typed or printed name	Deno P. DiGiorgio		
Signature	<i>Deno P. DiGiorgio</i>	Date	April 26, 2002

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

2/14/03

DOCKET NO.: G-091US05DIV
APPLICANTS: Benjanin, Tanaka
SERIAL NO.: 09/992,095
FILED : November 13, 2001

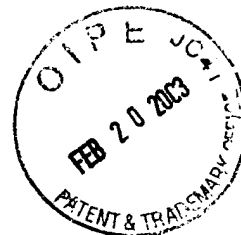
SUBMISSION TO PTO:

- 1) Submission of Sequence Listing Under 37 CFR §§1.821-5
- 2) Amendment Under 37 CFR §§1.825(a)-(c)
- 3) Sequence listing on paper and computer readable format
- 4) copy of Notice to Comply with Requirements
- 5) Petition and Fee for Extension of Time Under 37 CFR 1.136(a) (in triplicate)

JAJ/sl

2/14/03

DOCKET NO.: G-091US05DIV
APPLICANTS: Benjanin, Tanaka
SERIAL NO.: 09/992,095
FILED : November 13, 2001



SUBMISSION TO PTO:

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- 2) Amendment Under 37 CFR §§1.825(a)-(c)
- 3) Sequence listing on paper and computer readable format
- 4) copy of Notice to Comply with Requirements
- 5) Petition and Fee for Extension of Time Under 37 CFR 1.136(a) (in triplicate)

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Patent Amendment/Responses/etc.
Docket No.: 91.055.DIV

The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant/Patentee: Bejanin et al.
No. (Appln./Appeal/Interference/Patent/Reexam): 09/992,095
Filing/Issue Date: Nov. 13 2001
Title: HUMAN CDNAS AND PROTEINS & USES THEREOF

- | | |
|--|--|
| <input checked="" type="checkbox"/> Transmittal Letter <u>5B21</u> | <input type="checkbox"/> Comb. Declaration & Power of Attorney |
| <input type="checkbox"/> Assignment <input type="checkbox"/> Recordation Cover Sheet(s) | <input type="checkbox"/> Small Entity Statement |
| <input type="checkbox"/> Statement of Ownership under 37 CFR 2.73(b) | <input type="checkbox"/> Petition for Extension of Time/___ month(s) |
| <input checked="" type="checkbox"/> Amendment/Response <u>2</u> pages | <input type="checkbox"/> Status Inquiry |
| <input type="checkbox"/> Request for Continued Examination | <input type="checkbox"/> Declaration |
| <input type="checkbox"/> Maintenance Fee | <input type="checkbox"/> Request for Certificate of Correction |
| <input type="checkbox"/> Check \$ _____ | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Issue Fee <input type="checkbox"/> Request Patent Copies | <input type="checkbox"/> Appeal Brief (3 copies) ___ pages |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Reply Brief (3 copies) ___ pages |
| <input type="checkbox"/> PTO 1449 Form - ___ pages | <input type="checkbox"/> Deposit Account Order Form (2 copies) |
| <input type="checkbox"/> Prior Art References - No. of Ref. ___ | <input checked="" type="checkbox"/> Other: <u>SEQ LIST (112 PGS.);</u> |
| <input type="checkbox"/> Drawings ___ Sheets: | <u>CD-ROM (15 PGS.);</u> |
| <input type="checkbox"/> Formal <input type="checkbox"/> Informal <input type="checkbox"/> Amended | <u>CHANGE OF ADDRESS ADD.</u> |
| | <input type="checkbox"/> Exp. M.I. Label# _____ |

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8/12/2002

Patent Amendment/Responses/etc.
Docket No.: 91.055.DIV

The Patent and Trademark Office date stamp sets forth the date of receipt of:

Applicant/Patentee: Bejanin et al.
No. (Appln./Appeal/Interference/Patent/Reexam): 09/992,095
Filing/Issue Date: Nov. 13 2001
Title: HUMAN CDNAS AND PROTEINS & USES THEREOF

- | | |
|--|--|
| <input checked="" type="checkbox"/> Transmittal Letter <u>5B21</u> | <input type="checkbox"/> Comb. Declaration & Power of Attorney |
| <input type="checkbox"/> Assignment <input type="checkbox"/> Recordation Cover Sheet(s) | <input type="checkbox"/> Small Entity Statement |
| <input type="checkbox"/> Statement of Ownership under 37 CFR 2.73(b) | <input type="checkbox"/> Petition for Extension of Time/___ month(s) |
| <input checked="" type="checkbox"/> Amendment/Response <u>2</u> pages | <input type="checkbox"/> Status Inquiry |
| <input type="checkbox"/> Request for Continued Examination | <input type="checkbox"/> Declaration |
| <input type="checkbox"/> Maintenance Fee | <input type="checkbox"/> Request for Certificate of Correction |
| <input type="checkbox"/> Check \$ _____ | <input type="checkbox"/> Notice of Appeal |
| <input type="checkbox"/> Issue Fee <input type="checkbox"/> Request Patent Copies | <input type="checkbox"/> Appeal Brief (3 copies) ___ pages |
| <input type="checkbox"/> Information Disclosure Statement | <input type="checkbox"/> Reply Brief (3 copies) ___ pages |
| <input type="checkbox"/> PTO 1449 Form - ___ pages | <input type="checkbox"/> Deposit Account Order Form (2 copies) |
| <input type="checkbox"/> Prior Art References - No. of Ref. ___ | <input checked="" type="checkbox"/> Other: <u>SEQ LIST (112 PGS.);</u> |
| <input type="checkbox"/> Drawings ___ Sheets: | <u>CD-ROM (15 PGS.);</u> |
| <input type="checkbox"/> Formal <input type="checkbox"/> Informal <input type="checkbox"/> Amended | <u>CHANGE OF ADDRESS ADD.</u> |
| | <input type="checkbox"/> Exp. M.I. Label# _____ |

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